

IN THE SENATE

SENATE BILL NO. 1271

BY MCGEE

AN ACT

RELATING TO EMPLOYMENT; PROVIDING LEGISLATIVE FINDINGS; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 28, TITLE 18, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO PROVIDE PROVISIONS PROHIBITING THE USE OF CERTAIN FALSE DOCUMENTATION TO GAIN EMPLOYMENT, TO PROVIDE PENALTIES, TO PROHIBIT THE DESTRUCTION, ALTERATION, FALSIFICATION OR THEFT OF CERTAIN PUBLIC DOCUMENTS TO ASSIST A PERSON TO BECOME AN EMPLOYEE, TO PROHIBIT THE MANUFACTURE OF FALSE IDENTIFICATION TO ASSIST A PERSON TO BECOME AN EMPLOYEE, TO PROVIDE PENALTIES, TO PROVIDE THAT AN EMPLOYER SHALL NOT HIRE AN EMPLOYEE IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR AN ACTION, TO PROVIDE PENALTIES, TO PROVIDE FOR AN EXCEPTION AND TO PROVIDE THAT AN EMPLOYER SHALL NOT BE REQUIRED TO ACT IN CERTAIN CIRCUMSTANCES; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE FINDINGS. The Legislature finds that it is the public policy of the state of Idaho to discourage and prohibit the manufacturing of false identification and the use of false identification by all persons to obtain employment and prohibit employers from knowingly employing persons using false identification.

SECTION 2. That Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 28, Title 18, Idaho Code, and to read as follows:

CHAPTER 28

FALSE IMPERSONATION FOR EMPLOYMENT PURPOSES ACT

18-2801. SHORT TITLE. This chapter may be known and cited as the "False Impersonation for Employment Purposes Act."

18-2802. DEFINITIONS. As used in this chapter, unless the context otherwise requires, the following terms have the following meanings:

(1) "Employee" means any person who performs services or labor for an employer in the state for wages or other remuneration. For the purposes of this chapter, "employee" shall not refer to a person performing day labor, casual domestic labor in or around one's personal abode or a contractor performing services as an independent contractor. For the purposes of this chapter, an employer-employee relationship does not exist between a contractor and a subcontractor or its employees.

(2) "Employer" means an individual, corporation, limited liability company, partnership or other recognized legal entity that transacts business in this state and employs one (1) or more employees in this state.

1 (3) "Knowing," "knowingly" or "knowledge" means direct, clear and
2 express actual knowledge, as distinguished from constructive knowledge.

3 18-2803. FALSE IMPERSONATION FOR EMPLOYMENT -- PROHIBITION --
4 VIOLATION -- PENALTIES. Any person who falsely verifies, publishes,
5 acknowledges or provides documentation in the name of another person, or
6 who falsely provides any written instrument in order to gain employment
7 that is relied upon by an employer as true, shall be guilty of a misdemeanor
8 punishable by imprisonment in the county jail not to exceed two (2) years
9 and/or by a fine not to exceed five thousand dollars (\$5,000).

10 18-2804. FALSIFYING PUBLIC RECORDS FOR EMPLOYMENT -- PROHIBITION
11 -- VIOLATION -- PENALTIES. Any person who willfully destroys, alters,
12 falsifies or commits the theft of the whole or any part of any public document
13 of the state, or any political subdivision thereof, to assist a person to
14 become an employee or manufactures false identification to assist a person
15 to become an employee, shall be guilty of a felony punishable by imprisonment
16 in the state prison for not more than fourteen (14) years and/or a fine not to
17 exceed two hundred fifty thousand dollars (\$250,000).

18 18-2805. EMPLOYMENT OF PERSONS USING FALSE IDENTIFICATION --
19 PROHIBITION -- VIOLATION -- PENALTIES. (1) An employer shall not hire
20 an employee knowing the employee is providing false documentation to
21 impersonate another person or knowing the employee is falsely providing any
22 written instrument in order to gain employment.

23 (2) An action for a violation of the provisions of subsection (1) of
24 this section may be brought against the employer only in the county where the
25 employee is employed. An action against an employer for any violation of the
26 provisions of subsection (1) of this section prior to October 1, 2010, shall
27 not be brought.

28 (3) On a finding of a violation of the provisions of subsection (1) of
29 this section, the court shall order the employer to terminate the employment
30 of any employee falsely impersonating another person or terminate the
31 employment of any employee that falsely provided any written instrument in
32 order to gain employment.

33 (4) An employer that violates the provisions of subsection (1) of this
34 section shall be guilty of a misdemeanor punishable by imprisonment in the
35 county jail for not more than two (2) years and/or a fine not to exceed fifty
36 thousand dollars (\$50,000).

37 (5) For purposes of this section, an employer who employs an employee
38 in good faith belief that the employee was not falsely impersonating another
39 person or that the employee was not falsely using written documentation in
40 order to gain employment constitutes an absolute defense.

41 18-2806. EMPLOYER ACTIONS -- COMPLIANCE WITH THE LAW. The provisions
42 of this chapter shall not be construed to require an employer to take any
43 action that the employer believes in good faith would violate federal or
44 state law.

45 SECTION 3. The provisions of this act are hereby declared to be
46 severable and if any provision of this act or the application of such

1 provision to any person or circumstance is declared invalid for any reason,
2 such declaration shall not affect the validity of the remaining portions of
3 this act.

4 SECTION 4. This act shall be in full force and effect on and after
5 October 1, 2010.